

REMARKS/ARGUMENTS

Status of the Claims

The present amendment and request for reconsideration is filed in response to the Office Action mailed from the United States Patent and Trademark Office on September 26, 2008. Claims 1-19 are pending. In the present amendment, claims 6 and 18 are currently amended. Applicants submit that support for the amendments to the claims may be found throughout the specification and claims of the application as originally filed. Applicants submit that the amendments to the claims introduce no new matter.

Applicants amend dependent claim 6 to correct a reference number. Support for this amendment may be found in Figures 2-6 and paragraphs [0063] and [0065] of the published application. Applicants submit that the amendment to claim 6 introduces no new matter.

Applicants amend dependent claim 18 to correct a typographical error. Applicants submit that the amendment to claim 18 introduces no new matter.

Amendments to the Drawings

Applicants submit Replacement Sheets 1/6 – 5/6. As requested in the Office Action on pages 2-3, the cross sectional views, which correspond to Figures 4 and 6, have been amended to depict the plastic material by alternating thick and thin lines. The amended sheets are labeled “Replacement Sheet” in the top margin in compliance with 37 C.F.R. § 1.84(c). Support for the amendments to the drawings may be found, for example, at paragraphs [0038], [0040], [0052], [0057], [0064], [0068], and [0073] – [0075] of the published application. Applicants submit that the amendments to the drawings introduce no new matter.

The Office Action also requested that “the two spaced parallel legs rooted side by side on the peninsula (as set forth in claim 6) must be shown or the feature(s) canceled from the claim(s).” Page 2, lines 2-4. Applicants submit New Sheet 6/6, which corresponds to Figure 7. The new sheet is labeled “New Sheet” in the top margin in compliance with 37 C.F.R. § 1.84(c). Figure 7 is a perspective view of the closure of Figure 2 to more clearly show the two spaced parallel legs. Applicants submit that support for Figure 7 may be found in Figures 2-6, claim 6, and paragraphs [0062] – [0065] of the published application. Specifically, the two spaced parallel legs referred to in claim 6 are visible in Figures 2 and 3 as originally filed. Applicants submit that the new drawing introduces no new matter.

Amendments to the Specification

Applicants amend the specification to include reference to Figure 7 in the Brief Description of the Drawings. Figure 7 is a perspective view of the closure of Figure 2. For the reasons identified above with respect to the Amendments to the Drawings, Applicants submit that support for this amendment may be found in the application as originally filed. Applicants submit that the amendments to the specification introduce no new matter.

Claim Rejections – 35 U.S.C. § 103(a)

In the Office Action, claims 1-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Spreckelsen et al. (GB 2,353,789 and GB 2,377,701) (“Spreckelsen”) in view of Mavin et al. (EP 1,266,839) (“Mavin”). Additionally, claims 1-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawajiri et al. (US 4,948,015) (“Kawajiri”) in view of Mavin. The Office Action states that “Mavin teaches it is known to provide a peninsula portion as claimed for foil sealed closures with opening devices in order to prevent a dissipation of the pulling force to assure the application of the pulling force on a predefined, comparatively small region of the plastic part that is attached to the sealing means.” Page 4.

Mavin relates to the *peeling* of a foil, not the *tearing* of a foil or any other sealing means. Mavin is primarily concerned with grasping the outer edge of the foil and removing the whole foil from a container by breaking the bond between the foil and the container. Mavin at column 1, lines 50-53 (“In order to remove the foil liner it is intended that the consumer pull the tab in such a way as to overcome the bond between the foil liner and the container.”). The present invention, on the other hand, relates to the tearing of the foil itself. *See, e.g.*, Abstract.

Because Mavin’s objective is to peel the foil, rather than tear the foil, Mavin does not teach a leg (14) mounted such that it applies a force on a peninsula (50) of a removable part to tear the sealing means (8), as claimed in the present invention, or a device mounted on a spout (4) for applying a force to a peninsula at the periphery of a removable part (10), as claimed in the present invention. Indeed, Mavin’s objective in peeling the foil would be frustrated if Mavin’s teachings were applied to the closure of the present invention.

In view of the above comments, Applicants respectfully submit that Mavin does not teach a leg (14) mounted such that it applies a force on a peninsula (50) of a removable part to tear the sealing means (8), as claimed in the present invention, or a device mounted on a spout (4) for applying a force to a peninsula at the periphery of a removable part (10), as claimed in the present invention. Spreckelsen and Kawajiri do not cure the deficiencies of Mavin. That is, neither Spreckelsen nor Kawajiri teach or suggest a leg (14) mounted such that it applies a force on a peninsula (50) of a removable part to tear the

sealing means (8), as claimed in the present invention, or a device mounted on a spout (4) for applying a force to a peninsula at the periphery of a removable part (10), as claimed in the present invention. Thus, none of Spreckelsen, Kawajiri, and Mavin, taken separately or in combination, teach or suggest the closure of the present invention.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request reconsideration of the rejections and allowance of claims 1-10 and 12-19.

Respectfully submitted,

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